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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,955	07/21/2004	Motofumi Kashiwagi	4918-0101PUS1	8685

2292 7590 11/15/2007  
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FALLS CHURCH, VA 22040-0747

EXAMINER
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GARRETT, DAWN L

ART UNIT	PAPER NUMBER
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1794

NOTIFICATION DATE	DELIVERY MODE
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11/15/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/501,955	<b>Applicant(s)</b> KASHIWAGI ET AL.	
	<b>Examiner</b> Dawn Garrett	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 30, 2007 has been entered.

The amendment filed May 22, 2007 has been entered. Claims 2 and 8-20 are canceled. Claims 1 and 5 were amended. Claims 1 and 3-7 are pending. The species under consideration is perfluorocyclopentene (see Office action mailed March 1, 2007, paragraph 2).

The rejection of claims 1, 2, and 14 under 35 U.S.C. 102(e) as being anticipated by Anolick et al. (US 6,133,389) is withdrawn due to the amendment.

The rejection of claims 3-7 under 35 U.S.C. 103(a) as being unpatentable over Anolick et al. (US 6,133,389) in view of Nakamura et al. (US 5,427,858) is withdrawn due to the amendment.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is not seen where the specification sets forth or describes how to make a polymer comprising 70% by weight perfluorocyclopentene from a material gas that is perfluorocyclopropene as a main component.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 depends from canceled claim 2. Accordingly, the full meaning of claim 6 is not understood. Claim 7 is included in this rejection as it depends from claim 6. For the purpose of examination in terms of the prior art, it is assumed claim 6 should depend from claim 1.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 5 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of

copending Application No. 11/808,394. Although the conflicting claims are not identical, they are not patentably distinct from each other because the process claim of '394 encompasses the more specific requirements of a process set forth in present claim 5.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102 and 103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Muller et al. (US 5,132,335; see entire document). Muller et al. teaches forming methacrylate polymers that are described as transparent after polymerization (see col. 3, lines 47-49). In claim 1, "for electroluminescence devices" is considered to be an intended use and not patentably significant. The polymers formed by Muller have perfluorocyclopentene rings as the

sole perfluoroolefin component of the polymers (see column 4). The perfluorocyclopentene portions of the formed polymers are considered to read upon the "decomposition products of a perfluoroolefin" in claim 1. The polymers are described as a "coating" per the limitation of a "cover film". It would appear the described polymers all would have a light transmittance of 70% or larger in a wavelength band of 400 to 800 nm, since they are described as transparent. In the alternative that they are not all transparent, it would have been obvious to one of ordinary skill in the art to have selected a transparent polymer having a perfluorocyclopentene component to form a film, because Muller et al. teaches the polymers may be light transmissive. [Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773. Applicant bears responsibility for proving that reference composition does not possess the characteristics recited in the claims. *In re Fitzgerald*, 205 USPQ 597, *In re Best*, 195 USPQ 430.]

Claims 3, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller et al. (US 5,132,335) in view of Nakamura et al. (US 5,427,858). Muller discloses teaches forming methacrylate polymers that are described as transparent after polymerization (see col. 3, lines 47-49). The polymers formed by Muller have perfluorocyclopentene rings as the only perfluoroolefin component of the polymers (see column 4) with regard to the amount of perfluorocyclopentene out of all perfluoroolefins used. The perfluorocyclopentene portions of the formed polymers are considered to

read upon the "decomposition products of a perfluoroolefin" in claim 1. The polymers are described as a "coating" per the limitation of a "cover film".

The coatings are described for use in dental applications; however, Muller et al. does teach the materials are useful as coating agents and have large resistivity to physical and chemical stress (see col. 3, lines 53-59). Although Muller teaches these beneficial properties of the polymers, Muller is silent with respect to teaching specifically their use in organic electroluminescent devices to protect and to cover a device. Nakamura et al. teaches organic electroluminescence devices having a fluorine polymer layer (see title). The polymer layer is formed to protect the outer surface of the electroluminescence device structure (see abstract). With regard to the transmittance property in the visible spectrum, Nakamura et al. teaches the protection layer incorporated is transparent (see col. 5, lines 4-6). With regard to claims 3, 4, 6, and 7, the EL structure includes an electrode layer (anode or cathode), light emitting layer, a second electrode layer (anode or cathode) and the protective layer in order (see col. 10, line 26 to col. 13, line 14). Nakamura et al. teaches transparent materials for the electrode layers (see col. 10, line 35 to col. 11, line 13 and col. 12, lines 21-26). Although Nakamura et al. only specifically mentions *perfluoropropene*, Nakamura et al. teaches compounds such as perfluoropropene (which would include other perfluoro compounds such as polymers comprising perfluorocyclopentene portions) (see col. 7, lines 3-4). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the fluorine polymer film including perfluorocyclopentene taught by Muller for the Nakamura et al. device, because one would expect the Muller



polymeric film to be useful as the encapsulation film for the Nakamura et al. since it is taught that the material used by Muller is very resistant to physical and chemical stress.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim 5 has not been included in a prior art rejection; however, claim 5 is not considered to comprise allowable subject matter since the claim is rejected under 35 USC 112, first paragraph. Also, claim 5 is provisionally rejected under obviousness double patenting.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571) 272-1523. The examiner can normally be reached on Monday through Thursday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dawn Garrett/  
Dawn Garrett  
Primary Examiner  
Art Unit 1794